IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No.62 of 1991
Date of decision:15.9.2006

M/s Mount Shivalik Breweries Limited, Village Bhankarpur, District Patiala

...Petitioner

v.

The Commissioner of Income Tax, Patiala

...Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

Present: Mr. S.K.Mukhi, Advocate, for the petitioner
Dr. N.L.Sharda, Advocate, for the revenue.

JUDGMENT:

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh, arising out of its order dated 26.2.1991, RA No.58/Chandi/91, in respect of assessment year 1981-82:-

> "Whether on the facts and in the circumstances of the case and on a true interpretation of section 37 read with sections 30 to 36, the Tribunal was right in holding that depreciation allowance on furniture and fittings and expenditure incurred on rent of buildings for rest house cannot be allowed as a deduction?"

We find that the question stands covered against the assessee by judgment of the Hon'ble Supreme Court in **Britannia Industries Limited v. Commissioner of Income Tax and another,** (2005) 278 ITR 546.

Learned counsel for the assessee relied upon judgment of the Madras High Court in **CIT V. South India Viscose Limited,** (2003) 259 ITR 107. The said judgment has been referred to by the Hon'be Supreme court and the same does not stand approved. The Hon'ble Supreme Court in

Britannia Industries Limited's case (supra), observed:-

> ".....In our view, the intention of the Legislature appears to be clear and unambiguous and was intended to exclude the expenses towards rents, repairs and also maintenance of premises/accommodation used for the purposes of a guest house of the nature indicated in sub-section(4) of section 37. When the language of a statute is clear and unambiguous, the courts are to interpret the same in its literal sense and not to give it a meaning which would cause violence to the provisions of the statute. If the Legislature had intended that deduction would be allowable in respect of all types of buildings/accommodations used for the purposes of business or profession, then it would not have felt the need to amend the provisions of section 37 so as to make a definite distinction with regard to buildings used as guest houses as defined in sub section (5) of section 37 and the provisions of sections 31 and 32 would have been sufficient for the said purpose. The decisions cited by Dr. Pal contemplate situations where specific provision had been made in sections 30 to 36 of the Act and it was felt that what had been specifically provided therein could not be excluded under section 37. The clarification introduced by way of sub-section (5) to section 37 was also not considered in the said case."

In view of above, the question stands answered against the assessee and in favour of the revenue.

(Adarsh Kumar Goel)
Judge

Sept. 15, 2006 (Ajay Kumar Mittal)
'gs' Judge